

## MEETING #15– May 3

At a Joint Meeting of the Madison County Board of Supervisors and the Madison County Planning Commission on May 3, 2017 at 7:00 p.m. in the Madison County Administrative Center Auditorium located at 414 N. Main Street:

PRESENT: R. Clay Jackson, Chairman  
Jonathon Weakley, Vice-Chairman  
Robert Campbell, Member  
Kevin McGhee, Member  
Charlotte Hoffman, Member  
V. R. Shackelford, III, County Attorney  
Daniel J. Campbell, County Administrator  
Betty Grayson, Zoning Administrator

### Planning Commission:

#### Call to Order

#### Pledge of Allegiance & Moment of Silence

#### 1. Determine Presence of a Quorum

Mr. Yowell, Commission Chair, noted that a Quorum was present.

#### 2. Approval of Minutes

The minutes of the March 1, 2017 meeting were read and approved as presented.

#### 3. Action Items:

Mr. Yowell provided an overview of tonight's meeting process; representatives were asked to approach the podium to provide their name and any information pertinent to tonight's case; questions will be entertained by the Commission members, the public, and then the case will be recommended onto the Madison County Board of Supervisors either for approval, denial or tabling. In closing, he asked that applicants remain for the Madison County Board of Supervisor's portion of tonight's meeting.

- 33-10A                      a. Case No. S-05-17-05: Request by Joe H. Gieck, Trustee of the Joe H. Gieck Trust for a plat of a subdivision of land to create three (3) lots with residue. The residue and one lot will be on Route 612 (James City Road). Two (2) lots will be on Route 631 (Kirtley Road). These properties are located on Routes 612 and 631 (James City Road and Kirtley Road) at Leon, zoned A-1. Final plat has been approved by the Madison Health Department and VDOT.

E. J. Burke, Surveyor, was present to represent the applicant, and to answer any questions pertaining to tonight's request.

Mr. Yowell, Chair, advised the public that the commission reviewed tonight's cases during its monthly workshop session; therefore, in most instances, there are minimal cases being asked of the applicant.

After discussion, the Madison County Planning Commission recommended that Case No. S-05-17-05 be presented to the Madison County Board of Supervisors for approval with no conditions attached.

- 32-162                      b. Case No. S-05-17-06: Request by Martin Dale Wheeler for a plat of a subdivision of land to create one (1) lot with residue. This property is located on Route 640 (Tryme Road), near Tryme, zoned A-1. Final plat has been approved by the Madison Health Department and VDOT. Letter received from Adam Moor of VDOT on 4/19/17 to advise that he has no problems with the request. Final plat has been approved by the Madison Health Department and VDOT.

Martin Wheeler, applicant, was present to answer any questions pertaining to tonight's request.

After discussion, the Madison County Planning Commission recommended that Case No. S-05-17-06 be presented to the Madison County Board of Supervisors for approval.

- 48-43C            c.    Case No. SU-05-17-07: Request by the Board of Supervisors of Madison County, Virginia for an indefinite special use permit to allow Madison County Parks and Recreation Authority to have a golf driving range. Also, to allow a golf course in the future. This property is located at Hoover Ridge off Route 687 (Fairground Road) near Madison, zoned R-1 and A-1. This special use permit is on 18.90 acres zoned A-1 and the total acreage of the entire parcel is 181.882 acres. Jerry Carpenter with MCPRA has said they will use the existing port-a-potty on site for bathroom facilities. Letter received from Adam Moore of VDOT dated 4/19/17 to indicate that he has no comments at this time.

Valerie Miller was present to represent the MCPRA, and advised that six (6) tees and mats will be in place, along with a grassy area. Existing port-a-potty's will be relocated as necessary.

Questions from the Commission:

Pete Elliott: Questioned if a fenced area will be in place to keep dogs out of the tee area

Fay Utz: Questioned if allowing a golf cart course in the future will entail more (of something)

Daniel Crigler: Questioned why the MCPRA is asking for both uses now if only one will be used

Ms. Miller advised that the dog 'off leash' area will be amended.

The County Administrator further explained that today's request isn't for a full golf course, but a partial par three course, which requires less acreage (this type of course often uses the same tee boxes as a regular golf course).

Betty Grayson, Zoning Administrator, explained that the MCPRA is actually asking for 'the use' right now; the use would be allowed, but a site plan will be required later for the actual golf course. Also noted that both requests are probably on the same application so the MCPRA will not have to return before the commission at a later time.

Mr. Yowell, Chair, noted that the application requests states:

*"Also, to allow a golf course in the future which would require a site plan to be approved."*

After discussion, the Madison County Planning Commission recommended that Case No. SU-05-17-07 be presented to the Madison County Board of Supervisors for approval.

- 55-13            d. Request by Yates Properties of Madison LC for an indefinite special use permit to allow an automobile repair shop for Kevin Good to operate Good's Automotive. This property is located on Route 29 Southbound Lane (4972 South Seminole Trail) and contains 5.191 acres of land at Shelby, zoned Industrial, M-1. Letter received from Adam Moore of VDOT on 4/19/19 – he has no comments at this time. The Zoning Office did not hear from the Madison Health Department, but Mr. Yates stated at the PC workshop meeting on 4/19/17 that he has talked with the local health department and they said the existing well and septic were ok.

Greg Yates, applicant, was present and advised that he met with a representative (from the Rappahannock Health Department) at the site, who advised that she would have a letter provided to the County before tonight's meeting, which apparently didn't happen. He also advised that a new cap was to be placed on the existing well.

Kevin Good was also present.

- ✓ Questions from the Commission

Pete Elliott: Advised that he has served on the Commission and Board of Supervisors in the past; has seen Mr. Yates be required to acquire a special use permit numerous times for the same piece of property located in the County; questioned why applicants have to repeatedly pay money to attain a special use permit when the existing building is located in a B-1 zone

- ✓ Daniel Crigler: Feels the aforementioned concern is something the Commission needs to address; also questioned if the SUP will go with the property

Mr. Yowell, Chair, advised that this concern was discussed during the recent commission workshop. The consensus was to make the SUP application 'indefinite.'

Betty Grayson, Zoning Administrator, advised that the Commission could attach a condition that the 'special use permit would go with the land.'

After discussion, the Madison County Planning Commission recommended that Case No. SU-05-17-08 be presented to the Madison County Board of Supervisors for approval without conditions.

Additional comments:

Daniel Crigler: Questioned whether a letter should be attached (i.e. request hasn't been approved by the health department)

Mr. Yowell, Chair, reminded the commission members of the workshop session scheduled for May 17, 2017 at 7:00 p.m. Mr. Steve Cook will also be present for the workshop session.

#### 4. Adjournment

With no further action being required, Mr. Yowell, Chair, adjourned the Madison County Planning Commission's portion of tonight's session.

### **Board of Supervisors**

Call to Order

Chairman Jackson called the Madison County Board of Supervisors to order.

#### 1. Determine Presence of a Quorum

Chairman Jackson advised that a quorum was present.

#### 2. Adoption of Agenda

Supervisor Campbell moved the Board adopt tonight's agenda as presented, seconded by Supervisor Weakley. *Ayes: Jackson, Weakley, Campbell, McGhee, Hoffman. Nays: (0).*

#### 3. Action Items:

33-10A                      a. Case No. S-05-17-05: Request by Joe H. Gieck, Trustee of the Joe H. Gieck Trust.....

Supervisor Campbell: Questioned if any of the acres are involved in the land use program

Joe Glick, applicant, was present and advised that fifteen (15) acres are involved in the land use program.

Supervisor McGhee moved the Board approve Case No. S-05-17-05 as recommended by the Madison County Planning Commission, seconded by Supervisor Campbell. Ayes: Jackson, Weakley, Campbell, McGhee, Hoffman. Nays: (0).

32-162                      b. Case No. S-05-17-06: Request by Martin Dale Wheeler.....

Supervisor Campbell: Questioned if any of the acres are involved in the land use program

Martin Wheeler, applicant, was present and advised that none of the property is in the land use program.

Supervisor Weakley moved the Board approved Case No. S-05-17-06 as recommended by the Madison County Planning Commission, seconded by Supervisor Campbell. Nays: (0).

48-43C                      c. Case No. SU-05-17-07: Request by the Board of Supervisors of Madison County, Virginia.....

Supervisor Campbell: Advised that (in his opinion) the reason for handling both requests (by the MCPRA) at once was so that they would not have to return; indicated that the total acreage for the request involves 18.90 acres

The County Administrator indicated that (based on the application) 18.90 acres will be involved for today's request.

Supervisor Campbell moved the Board approve Case No. SU-05-17-07 as recommended by the Madison County Planning Commission, seconded by Supervisor Hoffman. Ayes: Jackson, Weakley, Campbell, McGhee, Hoffman. Nays: (0).

55-13

*d. Case No. SU-05-17-08: Request by Yates Properties of Madison LC.....*

Supervisor Campbell: noted that the fee for the SUP is \$500.00; noted that the health department noted that the septic system is ok; thanked the Commission for not holding up approving the case due to the lack of documentation being provided to the County. Further recommended the County refund the \$500.00 fee – the property was a working shop at one point and feels the County should ‘try to get rich’ by making folks get a new SUP each time; feels this endeavor will show the County as being ‘business friendly’

The County Attorney noted that as a matter of procedure, the County is to deal with the application first and any determination to waive the fee as a separate matter.

Supervisor Campbell moved the Board approve Case No. SU-05-17-08 as recommended by the Madison County Planning Commission, seconded by Supervisor Hoffman. Ayes: Jackson, Weakley, Campbell, McGhee, Hoffman. Nays: (0).

Supervisor Campbell moved that the County refund the \$500.00 special use permit fee (for Case No. SU-05-27-08), seconded by Supervisor Weakley.

Discussion:

Chairman Jackson: Advised that the property in question has been used for various uses (i.e. cedar goods, horse trailers, vehicle trailers, etc.); feels the property should be B-1; reference was made to attempts to rezone property

Supervisor Hoffman: Verbalized favor of a refund

Greg Yates, applicant, advised appreciation of the offer to refund the fee (i.e. if refunded, money will be donated to the MCPRA) that although he appreciates the offer (to refund the fee), and has offered to donate any refunded money to the local MCPRA; also verbalized disfavor of the property being rezoned to B-1; feels that a garage should be allowed in an M1 zone

*Ayes: Campbell, Hoffman. Nays: Jackson, Weakley, McGhee.*

*Mr. Yates advised that he will still make a donation to the MCPRA.*

#### 4. “Primitive” campgrounds:

Supervisor Campbell referred to a festival permit request submitted by Graves’ Mountain Lodge and the fact that County’s ordinance as it pertains to a ‘primitive campground.’ Tonight’s suggestion on how to deal with this matter were read as follows by Chairman Jackson:

*“Recently and in the past several years, the term ‘primitive camps’ have been included in applications for permits to the County and the Virginia Department of Health. Regulation 12VAC5-450-10 defines primitive camps as “camps which are characterized by the absence of generally understood or modern conveniences such as water (for showers) and electrical connections. A campground shall be classified as ‘primitive’ when tap or more of the required numbers of toilet seats are ‘non-flushed type.’ Primitive camps differ from those currently allowed by special use permit in C1 and A1, as specifically described in the County Zoning Ordinance Article C-1, 3-22, and Article 15, which describes camping facilities with all the modern conveniences. Currently, our Ordinance makes no reference to a business facility known as a primitive camp. According to our Ordinance, if a business/facility is not specifically allowed by right or by special use permit, it is not allowed. Therefore, in the interest of making our Ordinance more specific, understandable, and to appear business friendly and encourage business in Madison County, it appears that the Zoning Ordinance should be specifically amended to allow these types of businesses(s) by right or by special use permit. Suggestions and/or amendments should be emailed to the Commission Chair regarding the Ordinance, and ways to clarify this issue, and ‘allow by right’, if we wish to:*

- *Allow primitive camps by right: Amend Article 3 – Conservation, C1 to add a new section, 3-1-21 ‘Primitive Camps’ [subject to a new Article 15-A, or a new Article to be determined]*
- *The new Article 15-A would be described as a ‘primitive camp’ as defined above (lot size TBD): Making primitive by right would eliminate any County involvement except as specified in a new Article 15-A, and the property owner would simply deal with the health department, as allowed by special use permit*
- *Amend Article 3 Conservation – C-1: To add new section 3-2-26 Primitive Camps subject to the new Article 15-A as discussed above. These proposed amendments would carry over to properties zoned A-1*
- *In conclusion, amend Article 20 definitions to include a definition of a primitive campground as discussed*

above. Also, see definitions as 20-31, 20-157, and 20-200."

Comments:

- *Supervisor Campbell: Fees the matter of primitive campgrounds has gone on long enough; referred to a vote on primitive campgrounds in 2013 that wasn't effective (i.e. campground under Section 15); suggested the Board to approve that a primitive campground be allowed by right or by special use permit tonight (without a public hearing taking place[despite the usual process]); would like to refrain from having a situation where businesses fail to receive anticipated revenue because of not being allowed to hold an event*
- *Chairman Jackson: Feels if the Board is going to amend an Ordinance, a public hearing should be held, as this is the right way to do things (unconcerned about what transpired in the past)*

The County Attorney advised that:

- ✓ A joint public hearing was held on May 1, 2013 (between the Board and Planning Commission)
- ✓ Application was for a special use permit (for Graves' Mountain Lodge) for the campground
- ✓ The Planning Commission unanimously recommended (to the Board) that the special use permit be granted
- ✓ The Board also voted unanimously to grant the special use permit and site plan (to the applicant)
- ✓ The definition of a 'primitive campground' was discussed at length
- ✓ VDH would only approve the request (submitted by Graves' Mountain Lodge) if the definition of a 'primitive campground' met the definition as determined by the VDH
- ✓ Use of "primitive campground" was defined in the County's Ordinance under "camper/trailer"
- ✓ Each year Graves' presents a festival permit for approval (by the County, Sheriff's Office and Health Department)
- ✓ The VDH calls for a 'primitive campground' to fall under their umbrella for that specific use

In closing, The County Attorney advised that (in his opinion), the County isn't 'holding anyone up', as all approvals have been attained (by Graves' Mountain Lodge). However, there will continue to be concerns for the Graves' (in the future) if they continue to hold the festival and the permit continues to be submitted to specific personnel (i.e. Madison Health Department, Sheriff's Office) for approval.

- *Supervisor Campbell: Referred to acreage, options (for site plan and special use permit) in connection with Graves' Mountain Lodge; suggested the County make the request legal and 'pass it'; referred to a letter (from Mr. Dixon) that asked for a letter (from the former County Administrator) regarding the completion of the primitive campground and questioned why the request (from Mr. Dixon) was presented if everything was already complete and approved (i.e. special use permit, site plan); advised that (in his opinion) the County has some responsibility for campgrounds as does the health department (i.e. different definitions are noted (by the County and VDH) with regarding to different types of campgrounds; questioned how the County can 'just fit the category in'; expressed an interest in code of ethics (as to be upheld by the Commonwealth [local and state level]), and the requirement to provide open/honest government and adherence to policies/ordinances*

Supervisor Campbell moved that the County change the Ordinance to make this 'legal once and for all'.

***\*Motion died for the lack of a second\****

- *Chairman Jackson: Suggested the Board have discussion prior to a motion being placed on the floor*
- *Supervisor Campbell withdrew his original motion; verbalized disappointment that the motion wasn't seconded in order to bring forth discussion.*
- *Chairman Jackson: Questioned the possibility of moving forth with a discussion*

The County Attorney advised that the original motion 'has died' (for the lack of a second) and is no longer before the Board; the Board can discuss as a public body.

Discussion:

- *Chairman Jackson: Scenario involved whether a special use permit would be needed if a group of boy scouts*

*wanted to camp on his farm (i.e. or whether a special use permit was only allowed for business purposes)*

- *Supervisor Hoffman: Advised that (in her opinion), the County doesn't care if it's considered a primitive campground or not*

The County Attorney clarified that the request (pertaining to primitive campgrounds) is for a commercial business. He further explained that the definition of a 'primitive campground' is based on the health department's terminology and feels the County has to follow the aforementioned terminology. Additionally, he feels this is why the County approved the original request (by Graves' Mountain Lodge).

- *Supervisor Campbell: Referred to guidelines noted by the Code of Virginia with regard to a primitive campground, a self-contained camp, independent camp; feels the definition isn't only based on health department ideas*

Carty Yowell, Chair, was present and referred to section 322 – Conservation, C1 that states:

- ✓ "Travel trailer or camper camp as defined in Article 15".
- ✓ Article 15 states that: "Subject to the following condition(s)
- ✓ Article 15-7-7 states: "Water and sanitary facilities including refuse storage/removal are approved by the Madison County Health Department."
- ✓ Article 15-1-10 states: "Service buildings shall be provided (i.e. toilets, baths or showers, slot sinks and other sanitation facilities will meet health department requirements)."

And advised that he can relate to the Although he can relate to the points noted by the County Attorney, and realizes that a primitive campground is a health department item in reference to Article 15-1-10 (i.e. service buildings shall be provided)

The County Attorney advised that as it was originally planned, the service building would have been included in Phase II of the project. He also advised that the project was broken into two (2) phases because it was believed that at the time of the request, the Graves' didn't have the facilities in place (at the location) to warrant approval of the request for anything other than a 'primitive campground.' , as the project was broken into two (2) phases because it was believed that at the time the Graves' processed the request, they didn't have the facilities to get the request approved as anything except a 'primitive campground.'

It was further advised that the County's Ordinance notes that if a service building is required, then the building will require all the items as stated above.

The County Attorney further advised that in some ways, this issue has already been decided, for this applicant (in 2013) (rightly or wrongly). He further advised that the Madison County Planning Commission unanimously recommended approval and the Madison County Board of Supervisors unanimously approved the request as recommended.

Mr. Yowell further advised that it may be encumbered upon the Commission to clean up today's concerns for the future.

- *Supervisor McGhee: Advised that he would be more comfortable (in the future) dealing with such requests if a recommendation was provided by the Commission*
- *Supervisor Campbell: Expressed appreciation to Mr. Moscoe for his efforts on today's topic of discussion/concern*

Mike Moscoe, Commission member, referred to Mr. Yowell's interpretation (as noted), which is based on everything that he has reviewed about today's issue.

Pete Elliott, Commission member, expressed concerns that the issue of a primitive campground wasn't solved in the past; suggested the County 'make this go away', and advised that a possible resolution would be to include a 'primitive campground' in the County's Ordinance, and make it a use 'by right, and not by 'special use permit; further suggested that all uses by the Graves' should be noted as a 'use by right' to eliminate them from having to return to the County each year to apply for a festival permit; feels the County should help and encourage the efforts of local businesses.

The County Attorney verbalized an understanding of the ideas (presented by Mr. Elliott), but clarified that the reason that Graves' Mountain Lodge is asked to return (to the County) each year isn't because of the County's Zoning Ordinance, but because of the festival permit application required by the County.

Betty Grayson, Zoning Administrator, advised that the existing festival permit process is a part of the County's requirements.

- *Chairman Jackson: Advised that the issue of involving Graves' Mountain Lodge is a disappointment; suggested the County not 'drag any business through the mud'; noted there are other things (i.e. events) taking place in the County that aren't being brought before the Board for review and/or approval; also noted that (in his opinion) the idea of passing things along that haven't been fully discussed is a 'shoddy way of doing business'*

Daniel Crigler, Commission member, suggested the issue of concern be brought before the Commission for:

- ✓ Review/consideration
- ✓ Consider of being added to a "C-1 zone by right"
- ✓ Entertaining a public hearing (to attain public input on the matter)
- *Supervisor Weakley: Verbalized agreement with passing the matter onto the Commission for discussion/resolution; suggested that input be attained from all businesses on the matter*
- *Supervisor Campbell: Suggested new language be added (to the Ordinance); suggested the Planning Commission discuss the matter without the 'interpretations from the County Attorney or the Zoning Administrator; noted that the Planning Commission is supposed to be the source of the Ordinance (excluding the interpretations of the 'peanut gallery')*

It was further advised that the 'peanut gallery' has kept the County out of a lot of trouble.

After discussion, it was the consensus of the Board to pass the issue regarding a 'primitive campground' onto the Madison County Planning Commission for discussion and possible resolution.

Supervisor Campbell moved that the Board adjourn.

Pete Elliott, Commission member, advised that Mr. Payne (property owner) is present; he questioned what would be the consequences and whether any laws would be broken if a business (located in a B1 zone) proceeded to operate a beauty salon that was allowed 'by right' in that particular zone.

#### **Discussion:**

The County Attorney noted that the above referenced concerns fall within the realm of the Madison Health Department.

The County Administrator advised that the Madison Health Department (and Department of Environmental Quality) has regulatory authority that allows them to require corrective action. He further advised that:

- ✓ Penalties/fines can also be applied along with the option of entering a business/entity into a consent order/decreed to make corrective actions.
- ✓ Regulations can be imposed (upon a business) to shut
- ✓ Regulations can be imposed to allow a business to remain open and work towards resolution of any issues
- ✓ The DEQ can impose significant daily fines to anyone that continues to operate out of compliance with required regulations
- *Supervisor Weakley: Advised that Whitney Wright (VDH Environmental Health Manager) attended a recent meeting and advised that the department has reviewed the information pertaining to the case (in question); the VDH is now waiting on a reply from the applicant; also referred to the original plat (for the property) and the fact that the proposed plan (for the property) could be approved by a soil scientist, excluding conditions being imposed by the VDH*

The County Administrator advised that the VDH is waiting on characterization of the 'flow' (as indicated from Mr. Payne); the applicant is also working on having a qualified scientist to provide detailed information to the VDH.

Mr. Payne advised that he awaiting a response from Tom Houston.

- *Chairman Jackson: Questioned the fact that the property is zoned B-1 and why the applicant went to the VDH (i.e. use involved is 'by right')*

Mr. Payne indicated that he was referred to VDH by the County's Building Inspector, as the County has to sign off (along with VDOT and the VDH); also noted that VDOT wanted a light installed on Rt. 29; feels that he has gotten 'shot down' every time he comes forth with a request.

Pete Elliott, Commission member, verbalized concerns that the applicant is being told 'no', and that there is no business license requirement in the County.

The County Administrator indicated that he didn't feel the County could advise anyone to do something that may not meet all the requirements.

Betty Grayson, Zoning Administrator, advised that she suggested the applicant contact VDH and VDOT to ensure nothing further was required (i.e. based on state law).

**Six Year Road Improvement Plan:** Supervisor Weakley reminded the public that suggestions have been made to VDOT regarding unpaved roads with a traffic count of fifty (50) vehicles or greater; the public was encouraged to point out any roads meeting the criteria so they may be included in the plan.

**Virginia Department of Health:** Chairman Jackson advised that the VDH representative will be attending the Commission's upcoming work session; contact information can be obtained from the County Administrator.

Supervisor Campbell: Apologized for the 'peanut gallery' comment, as it was very inappropriate; advised he was frustrated

**5. Closed Session (if necessary) – None.**

## **6. Adjournment**

With no further action being required, Chairman Jackson adjourned the meeting.

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Clerk of the Board of the Madison County Board of Supervisors

Adopted on: May 23, 2018

Copies: Board of Supervisors, County Attorney & Constitutional Officers

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**Agenda**  
**Joint Meeting and Public Hearing**  
**Madison County Board of Supervisors**  
**Wednesday, March 1, 2017 at 7:00 p.m.**  
**Madison County Administration Building, Auditorium**  
**414 N Main Street, Madison, Virginia 22727**



1. Determine Presence of a Quorum
2. Approval of Minutes
3. Action Items:

33-10A

*a. Case No. S-05-17-05: Request by Joe H. Gieck, Trustee of the Joe H. Gieck Trust for a plat of a subdivision of land to create three (3) lots with residue. The residue and one lot will be on Route 612 (James City Road). Two (2) lots will be on Route 631 (Kirtley Road). These properties are located on Routes 612 and 631 (James City Road and Kirtley Road) at Leon, zoned A-1.*

32-162

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48-43C

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4. Adjournment

**Board of Supervisors**

**Call to Order**

1. Determine Presence of a Quorum
2. Adoption of Agenda
3. Action Items:

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*a. Case No. S-05-17-05: Request by Joe H. Gieck, Trustee of the Joe H. Gieck Trust.....*

32-162

*b. Case No. S-05-17-06: Request by Martin Dale Wheeler.....*

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55-13

*d. Case No. SU-05-17-08: Request by Yates Properties of Madison LC.....*

4. Information/Correspondence (if any)
5. Closed Session (if necessary)
6. Adjournment